

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6226**

**BILL NUMBER:** SB 199

**NOTE PREPARED:** Nov 15, 2002

**BILL AMENDED:**

**SUBJECT:** Possession of Firearms by Minors.

**FIRST AUTHOR:** Sen. Clark

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- (A) It makes students who commit a delinquent act concerning alcoholic beverages or dangerous possession of firearms ineligible for receiving student assistance through the 21<sup>st</sup> Century Scholars Program.
- (B) It makes dangerous possession of a firearm by a child who is less than 16 years of age a delinquent act.
- (C) It makes the offense, in certain cases, a nonsuspendible offense and requires a minimum period of confinement in a juvenile secure facility if the offense is committed in a public safety improvement area.
- (D) It prohibits certain adult offenders convicted of dangerous possession of a firearm from being placed on home detention or in a community corrections program.

**Effective Date:** July 1, 2003.

**Explanation of State Expenditures:** (A) The Twenty-first Century Scholars Program began in 1990 to provide additional financial assistance to low- and moderate-income families. Income-eligible 7<sup>th</sup> and 8<sup>th</sup> graders who enroll in the program and fulfill a pledge of good citizenship to the state are guaranteed the cost of four years of college tuition at any participating public college or university in Indiana. If the student attends a private institution, the state will award an amount comparable to that of a public institution. If the student attends a participating proprietary school, the state will award a tuition scholarship equal to that of Ivy Tech State College.

This provision adds two conditions to a student's pledge of good citizenship: to not commit any alcohol-related delinquent acts and acts involving the dangerous possession of firearms. Students who commit these acts or any other criminal or delinquent act would no longer be eligible for college assistance through this

program.

(B) *Background:* Dangerous possession of a firearm (IC 35-47-10-5) occurs when a child knowingly, intentionally, or recklessly possesses a firearm or provides a firearm to another child with or without remuneration and who generally has no adult supervision and is not involved in any type of organization promoting the use of firearms in a safe and responsible manner. Under current law, the offense is a Class A misdemeanor and a repeated offense is a Class C felony.

Legislative bodies of second class and consolidated cities may apply to the Indiana Criminal Justice Institute to create public safety improvement areas under IC 36-8-19.5. Areas with this designation must have high crime rates. These areas are eligible to receive grants from the Criminal Justice Institute to address these problems. As of November 2002, public safety improvement areas were located in two sections of Indianapolis (Marion County), one in Michigan City (Laporte County), and one in East Chicago (Lake County).

This provision specifies that a person under 16 years of age who commits this violation would be treated as a juvenile. If the person is over 16 years of age, then the person would be treated as an adult offender.

If juveniles are convicted of firearm possession violations in public safety improvement areas, this bill requires that they spend a minimum nonsuspendible 120-day sentence in either a secure facility or a quasi-military program for rehabilitative purposes.

DOC reports that nine juveniles under 16 years of age were committed during FY 2001 and FY 2002 for violating IC 35-47-10-5. The following table shows the distribution of juveniles by age for these two years:

<b>Number of Juveniles Committed to DOC Juvenile Facilities in FY 2001 and FY 2002 for Violating IC 35-47-10-5</b>	
Age at Admission	Number Of Juveniles
12	1
13	3
14	0
15	<u>5</u>
Total	<u>9</u>

For juveniles who were released from DOC in FY 2001 and FY 2002 for dangerous possession of a firearm, the average number of days that these juveniles stayed in DOC facilities was 415 days, with a low of 275 days and a high of 615 days.

DOC staff indicate that this offense is a Level I (violent) offense and is generally the most serious offense for which the juvenile is charged. Under current DOC policy, juvenile offenders who are committed to DOC after being convicted of a firearms possession offense will be housed in a secure facility in either Pendleton, Plainfield, or Indianapolis. Consequently under this bill, if a juvenile is committed to DOC for a firearms violation that occurred in a public safety improvement area, the juvenile would likely be spending less time

in a juvenile facility than if they were arrested in an area that was not a public safety improvement area.

The average FY 2001 DOC cost of housing juveniles was \$48,855. (The FY 2001 cost of the DOC Camp Summit quasi-military boot camp program specified in the bill was \$46,676.)

In FY 2001 and FY 2002, four juveniles were committed to DOC facilities for dangerous possession of firearms who were between 16 and 18 years of age. All four of these juveniles were 16 years of age. No juvenile offenders were 17 or 18 at time of intake. For these juvenile offenders who were released from DOC in either FY 2001 or FY 2002 and were 16 years of age or over at age of intake, the average number of days that these juveniles stayed in DOC facilities was 400 days. Each had been committed on a first time offense, which is a Class A misdemeanor. If these juveniles were treated as adults, then they would be sentenced for a Class A misdemeanor for a first time offense (which could carry a maximum one-year term in a county jail) and as a Class C felony for a second offense.

The number of juveniles who have been committed to DOC for firearms violations as a juvenile between 16 and 18 years of age is presented in the following table.

<b>Number of Juveniles Committed to DOC Juvenile Facilities in FY 2001 and FY 2002 for Violating IC 35-47-10-5</b>	
Age at Admission	Number Of Juveniles
16	4
17	0
18	<u>0</u>
Total	<u>4</u>

A second offense of dangerous possession of a firearm by a person who is between 16 and 18 would be Class C felony. Under this bill, the offense would be punishable by a minimum term of two years if the offense occurred in a public safety improvement area and involved the knowing or intentional possession of a firearm. An offender would not be permitted to be placed in a community corrections program.

Disallowing placement in home detention or other community corrections programs could increase the number of juveniles who would be placed in juvenile facilities if the offender is younger than 16 and in adult facilities if the offender is between 16 and 18 years of age. This is because the average expenditure to house an adult offender was \$25,087 in FY 2001, and individual facility expenditures ranged from \$18,520 to \$54,465. For juvenile offenders, the annual average cost is \$55,445 and ranges between \$43,321 and \$71,124. This compares with an average annual cost of \$1,288 for placing an offender in a community correction program (*adult program expenditures in FY 2002 of \$20,343,670 ÷ 15,799 adult offenders being served as of December 31, 2001*). The cost of electronic monitoring in home detention averages \$5,055 annually. The number of juveniles sentenced to community corrections programs for firearm possession violations is not known.

*Provisions C and D:* Under current law, the court may suspend all of a juvenile's sentence for dangerous

possession of a firearm. The offender whose sentence is suspended is placed on probation for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire. Or alternatively, the court may directly place an offender in a community correction program instead of in prison. Offenders convicted and sentenced for possession of a firearm in a public safety improvement area will be sentenced to at least two years in prison and will be incarcerated for at least one year.

For a Class C felony, the minimum sentence is two years. Assuming that offenders receive one day of credit for each day served when complying with DOC facility rules of conduct, the offenders could be released from prison in one year.

*DOC's annual reports show that no offenders have been committed to DOC facilities for this felony as an adult. Consequently, LSA staff is not able to estimate the additional beds that would be needed from this change in statute.*

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** (B) Juvenile courts would be unlikely to experience any measurable effect due to this bill.

*Provisions C and D* could reduce the workload for probation departments and community corrections programs if some of these offenders are sentenced to DOC facilities instead of community corrections or probation programs.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Juvenile courts; probation departments; community corrections programs.

**Information Sources:** Department of Correction.

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